



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/171661

PRELIMINARY RECITALS

Pursuant to a petition filed January 25, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Marquette County Department of Human Services ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone from Madison, Wisconsin on February 23, 2016. The Hearing for this matter was held at the same time as the Hearing for the following closely related matter concerning the same petitioner: FOP-171660.

The issue for determination is whether it was correct to establish the following 2 Claims against petitioner for alleged overpayments of BadgerCare Plus MA ["BC+"] for the time period September 1, 2014 to December 31, 2015 in the total amount of \$6,570.00:

- (I) Claim Number [REDACTED]; September 1, 2014 to April 30, 2015; \$3,804.00; and,
- (II) Claim Number [REDACTED]; May 1, 2015 to December 31, 2015; \$2,766.00.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

BY: [REDACTED], ESS Worker

Marquette County Department of Human Services
480 Underwood Avenue
PO Box 99
Montello, WI 53949-0099

ADMINISTRATIVE LAW JUDGE:
 Sean P. Maloney
 Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]; 43 years old) is a resident of Marquette County, Wisconsin.
2. The County established the following 2 Claims against petitioner for alleged overpayments of BC+ for the time period September 1, 2014 to December 31, 2015 in the total amount of \$6,570.00:
 - (I) Claim Number [REDACTED]; September 1, 2014 to April 30, 2015; \$3,804.00; and,
 - (II) Claim Number [REDACTED]; May 1, 2015 to December 31, 2015; \$2,766.00.
3. During the time period of the alleged BC+ overpayments listed in *Finding of Fact* #2, above, petitioner's 2 children (son "KS" born in 1998; and, daughter "SS" born in 2001) were included as living in petitioner's home.
4. During the time period of the alleged BC+ overpayments listed in *Finding of Fact* #2, above, petitioner and her 2 children (KS and SS) did not live together in the same home and petitioner failed to report this.

DISCUSSION

An overpayment of BC+ benefits may be recovered only in the following 3 circumstances:

- A. A misstatement or omission of fact by a person supplying information in an application for benefits;
- B. The failure of an MA or BadgerCare recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits; or,
- C. The failure of an MA or BadgerCare recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

Wis. Stat. § 49.497(1)(a) (2013-14); See also, *Medicaid Eligibility Handbook* ["MEH"] 22.2.1; BEM/DWS Operations Memo, No: 05-39, Date: 09/29/2005; and, BEM/DWS Operations Memo, No: 06-10, Date: 02/09/2006.

The County established the alleged overpayments in this matter because petitioner and her 2 children did not live together in the same home and petitioner failed to report this. Prior to April 1, 2014, with certain exceptions not applicable here, in order to be eligible for BC+ an adult must be a parent or caretaker relative of a child who is living in the home with the parent or caretaker relative. However, effective April 1, 2014 this was no longer the case and childless adults can be eligible for BC+. Wis. Stat. §

49.471(4)e. (2013-14); BC+EH 2.1.5 & 16.1.1. Therefore, the alleged overpayments in this matter cannot be sustained and must be reversed.

CONCLUSIONS OF LAW

For the reasons discussed above, it was not correct to establish the following 2 Claims against petitioner for alleged overpayments of BC+ for the time period September 1, 2014 to December 31, 2015 in the total amount of \$6,570.00:

- (I) Claim Number [REDACTED]; September 1, 2014 to April 30, 2015; \$3,804.00; and,
- (II) Claim Number [REDACTED]; May 1, 2015 to December 31, 2015; \$2,766.00.

NOW, THEREFORE, it is

ORDERED

That this matter be REMANDED to the County, that the County not establish the following 2 Claims against petitioner for alleged overpayments of BC+ for the time period September 1, 2014 to December 31, 2015 in the total amount of \$6,570.00, and that, with 10 days of the date of this *Decision*, the County send a letter to petitioner stating that it will not establish those overpayments:

- (I) Claim Number [REDACTED]; September 1, 2014 to April 30, 2015; \$3,804.00; and,
- (II) Claim Number [REDACTED]; May 1, 2015 to December 31, 2015; \$2,766.00.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

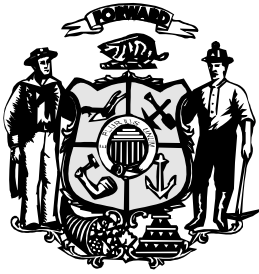
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 17th day of March, 2016

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 17, 2016.

Marquette County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability